
Report on Procurement Non-Compliance



FY 2017/2018

29 May 2018

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1.0 Executive Summary

The Public Financial Management Act (PFMA) requires that all entities using public resources for procurement must follow the requirements of the Public Procurement and Concessions Act (PPCA). Following is a report on the compliance of agencies of government and organizations that have received and are expending public resources in FY 2017/2018.

For this report, an agency is classified as compliant if it has a procurement plan that has been approved by the Commission.

The agencies that have been included in this report are those to which the PPCA applies and that have received allocations for goods and services in the FY 2017/2018 National Budget.

The assumptions that this report is premised on are that 1) 12 of the 111 agencies with main lines in the budget have not been included because either the PPCA does not apply to them or that they do not have allocations for good and services, 2) the National Legislature has been considered as two separate procuring entities, namely House of Senate and House of Representatives.

There is a 65% compliance level for entities with main lines in the FY 2017/2018 National Budget representing a 20-point reduction in compliance level from the previous fiscal year. The notable entities with very high non-compliance impact risk are University of Liberia, House of Representatives, House of Senate, Ministry of Public Works, and the Environmental Protection Agency.

State-Owned Enterprises (SOEs) have a compliance level of 75%, up by 31-points from the last fiscal year but still below the desired target of 100%. The four non-compliant SOEs are Central Bank of Liberia, Liberia Electricity Corporation, National Housing Authority, and the National Lottery Authority.

Compliance level for agencies and organizations that receive transfers and grants is still dismal with the FY 2017/2018 at 4% down from 17% the previous year. The seven transfer/grant-receiving entities that are compliant are Liberia Drug Enforcement Agency, Liberia Immigration Service, Liberia National Police, National Fisheries & Aquaculture Authority, National Police Training Academy, Nimba County, and Sinoe County. All other agencies and organizations that receive grants or transfers are procurement non-compliant.

The PFMA requires full compliance with the PPCA in expending public resources for goods and services. The PPCA requires that expanding entities have an approved procurement plan as a first step in compliance. These requirements in the are to uphold various provisions of the Liberian Constitution. Compliance with these requirements is therefore mandatory and to ensure full compliance by all, the Commission is advancing the following recommendations:

1. MFDP should not give allotment to any entity that does not have an approved procurement plan;
2. The salary of the head of any agency that does not have an approved procurement plan by the end of the first quarter should be withheld until the entity has an approved procurement plan; and
3. PPCC should be given an additional budget support of USD 300,000 (three hundred thousand United States dollars) to conduct in-depth procurement training.

2.0 Scope of Analysis

Section 24 of the Public Financial Management Act (PFMA) requires that “*All purchases of goods and services from suppliers, including capital investments, shall comply with the provisions prescribed in the Public Procurement and Concessions Act of 2005, as amended [to date], and its enabling regulations.*” Section 40 of the Public Procurement and Concessions Act (PPCA) requires all procuring entities to prepare and submit an annual procurement plan for the Commission approval before undertaking any procurement activity.

In this report, an agency is classified as procurement non-compliant if it does not have a procurement plan for FY 2017/2018 that has been approved by the Commission by May 25, 2018. Agencies that are executing projects being financed from the recast budget for FY 2017/2018 have also been classified as procurement non-compliant.

The agencies under consideration in this report are those that have allocations in the FY 2017/2018 National Budget for goods and services or for projects. Agencies that are listed in the FY 2017/2018 National Budget but do not have allocations for goods and services have not been included in this report. The National Security Agency, which is exempted by law from the requirements of the PPCA, has not been included in this report.

2.1 Assumptions and Considerations

1. There are 111 (one hundred and eleven) agencies with main lines in the FY 2017/2018 National Budget, 12 (twelve) of which are not included in the analysis in this report as indicated below:
 - The National Security Agency is exempted by law from the requirements of the PPCA and so has been excluded from the analysis;
 - Four agencies (Bureau of State Enterprises, National Food Assistance Agency, National Housing & Savings Bank, and Liberia Industrial Free Zone Authority) do not have allocations for Goods and Services and are therefore excluded;
 - Seven agencies (Land Commission, Liberia Copyright Office, Liberia Industrial Property System, Liberia Institute of Bio-Medical Research, Liberia Maritime Authority, Liberia Rubber Development Authority, Mano River Union) do not have any allocation and are therefore excluded.¹
2. Of the remaining 99 (ninety-nine) agencies from Assumption 1 above, the National Legislature has been divided into two (House of Representatives and House of Senate) since each is a separate procuring entity. This makes a total of 100 (one hundred) procuring entities with main lines in the FY 2017/2018 National Budget that are included in the analysis for this report.
3. In the FY 2017/2018 National Budget, 1.35% of the allocations (USD 7,583,760) are made to the agencies listed in the first two bullets in Count 1 above. This amount has therefore been excluded from the analysis in this report. The adjusted total amount of the FY

¹ Land Commission has not changed to Liberia Land Authority, Liberia Copyright Office and the Liberia Industrial Property System have both been merged into the Liberia Intellectual Property Office, the Liberia Institute of Bio-Medical Research is now a part of the National Public Health Institute, the Liberia Maritime Authority is discussed in the section on SOEs.

2017/2018 National Budget in this report is therefore USD 555,979,672.

3.0 Procurement Non-Compliance

3.1 Procurement Non-Compliance of Agencies with Main Budget Lines

Of the 100 procuring entities with main lines in the FY 2017/2018 National Budget, 65 have approved procurement plans while 35 are procurement non-compliant. The full list of the 35 non-compliant procuring entities is provided in Annex 6.1 beginning on Page 7. This 65% compliance level represents a 20-point drop in compliance level from FY 2016/2017 as shown in Figure 1.

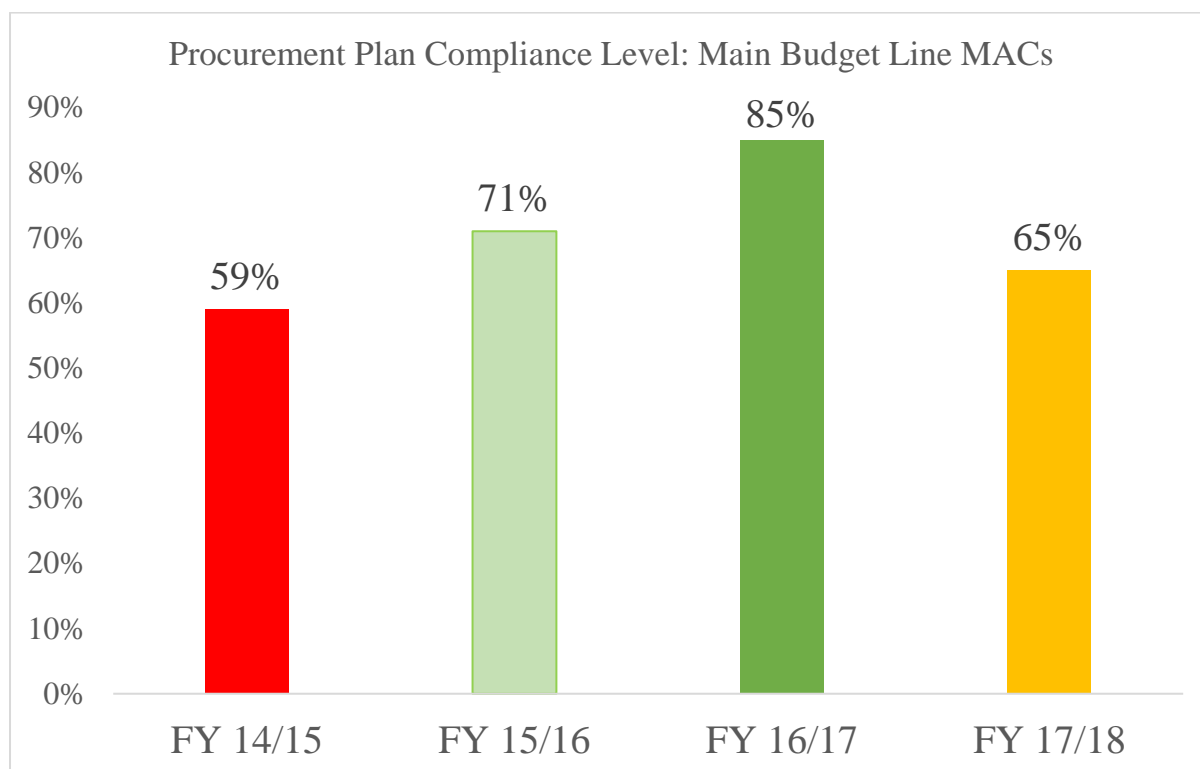


Figure 1: Procurement Plan Compliance Level for Main-Budget-Line Procuring entities 2014 - 2018

By not following the tenets of best public procurement these 35 non-compliant procuring entities cumulatively put 32% of the national procurement envelope (or USD 47,805,209) at risk of waste and abuse.

Notable among these non-compliant entities are the five agencies listed in Table 1 below that have the highest non-compliance impact risk exposure.

No.	Entity	FY2017-18 Budget	Goods & Services	Percentage of National Procurement Envelope at Risk
1	University of Liberia	16,176,400	16,176,400	10.9%
2	House of Representatives	30,352,848	10,736,477	7.2%
3	House of Senate	14,590,622	4,605,835	3.1%
4	Ministry of Public Works	30,438,472	4,058,837	2.7%
5	Environmental Protection Agency	2,679,484	1,424,870	1.0%

Table 1: Main-Budget-Line Entities with Highest Non-Compliance Impact Risk

3.2 Non-Compliance of State-Owned Enterprises

There are 16 State-Owned Enterprises (SOEs), of which nine have main-line allocations in the FY 2017/2018 National Budget² which are also included in the analysis under topic **3.1 Procurement Non-Compliance of Agencies with Main Budget Lines** above.

Of the 16 SOEs, twelve have approved procurement plans and four do not resulting in a compliance level of 75%. This represents a 31-point improvement in the SOE compliance level from FY 2016/2017; it is however still below the FY 2014/2015 level of 83% and still further below the target of 100%. These comparative compliance levels for SOEs from 2014 to 2018 is shown in Figure 2.

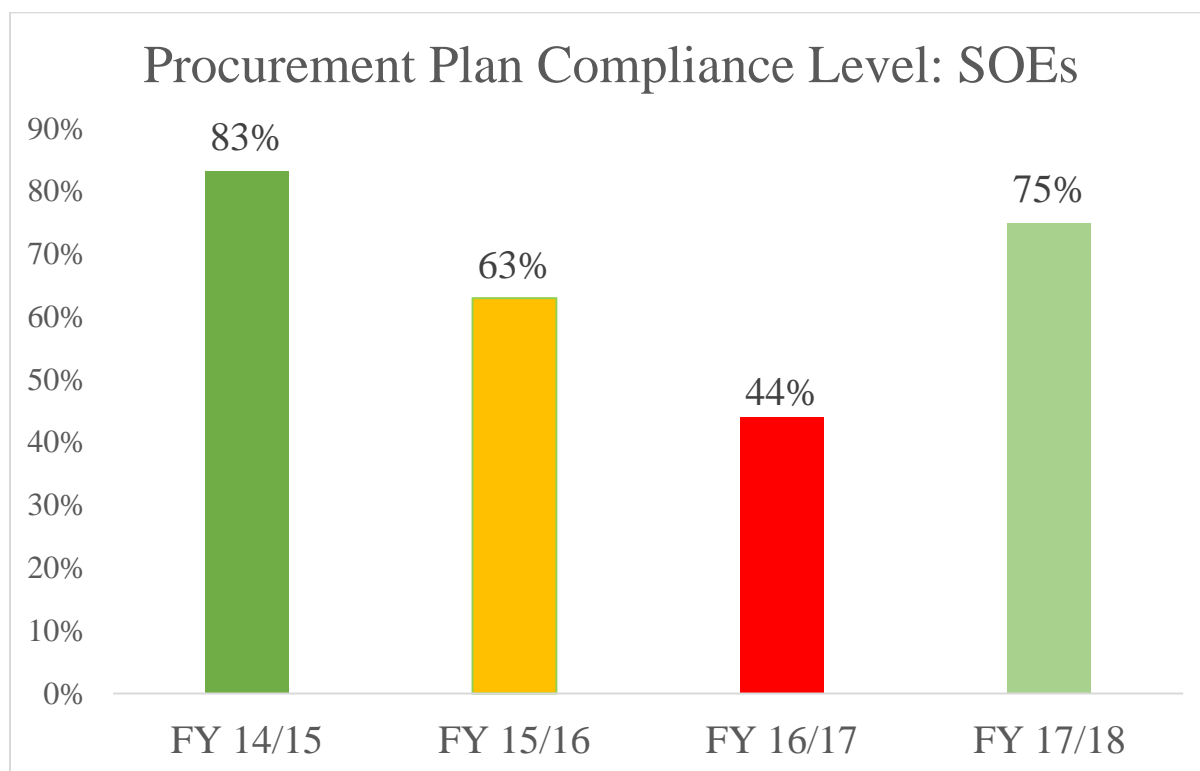


Figure 2: Procurement Plan Compliance Level for SOEs 2014 - 2018³

The procurement non-compliant SOEs are

1. Central Bank of Liberia
2. Liberia Electricity Corporation
3. National Housing Authority
4. National Lottery Authority

² The nine SOEs that have main lines in the FY 2017/2018 National Budget are Forestry Development Authority, Liberia Airport Authority, Liberia Broadcasting System, Liberia Electricity Corporation, Liberia Telecommunications Corporation, Liberia Water & Sewer Corporation, National Housing Authority, National Lottery Authority, National Transit Authority

³ The figures for FY 14/15 to FY 16/17 is for SOEs that did not receive allocations in the respective fiscal year budgets. The Figure for FY 17/18 is for all 16 SOEs.

3.3 Non-Compliance of Agencies Receiving Transfers or Grants

There about 200 entities that receive transfers or grants in the FY 2017/2018 National Budget, of which only seven have approved procurement plans, corresponding to a non-compliance level of 96%. This category of procuring entities are the most non-compliant as depicted in Figure 3.

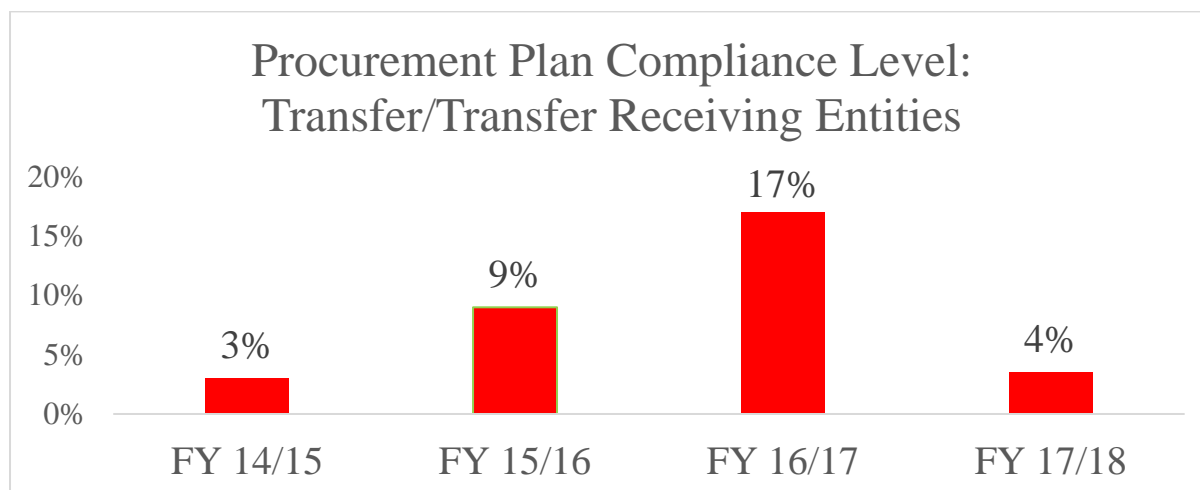


Figure 3: Procurement Plan Compliance Level for Grants and Transfers Receiving Entities 2014 – 2018

The seven compliant procuring entities in this category are shown in Table 2. All other agencies that receive grants or transfers are procurement non-compliant.

No.	Entity	Transfer/Grant From
1	Liberia Drug Enforcement Agency	Ministry of Justice
2	Liberia Immigration Service	Ministry of Justice
3	Liberia National Police	Ministry of Justice
4	National Fisheries & Aquaculture Authority	Ministry of Agriculture
5	National Police Training Academy	Ministry of Justice
6	Nimba County	Ministry of Internal Affairs
7	Sinoe County	Ministry of Internal Affairs

Table 2: List of Compliant Transfers/Grants Receiving Agencies in the FY 2017/2018 National Budget

4.0 Recommendations

The non-submission of a procurement plan to PPCC by any agency or organization that receives and expends public resources for the acquisition of good and services is a violation of the Public Financial Management Act and the Public Procurement and Concessions Act. These requirements are enshrined in these laws to uphold the provisions of the Liberian Constitution in Article 5(c), Article 7, and Article 8. No agency, organization, or person has an option to adhere to the law. The government therefore needs to take actions to ensure full compliance by all agencies and organizations to which the law applies that are expending public resources to acquire goods and services.

In this regard, the Commission tables the following recommendations as means of ensuring full compliance:

1. That no agency or organization to which the PPCA applies, should be given allotment by the Ministry of Finance and Development Planning unless that agency or organization has an approved procurement plan;
2. That, if by the end of the first quarter of each fiscal year a procuring entity still does not have an approved procurement plan, the salary of the head of that entity should be withheld until the entity has an approved procurement plan;
3. That PPCC be provided additional budgetary support in the amount of USD 300,000 (three hundred thousand United States dollars) for the holding of in-depth procurement workshops for senior government officials, procurement and financial management officers, etc.

5.0 Annexes

5.1 List of non-Compliant Main-Budget-Line Agencies

No.	Entity	Sector	FY2017-18 Budget	Goods & Services	Percentage of Agency's Budget at Risk	Percentage of National Procurement Envelope at Risk
1	Bassa County Community College	Education	750,636	205,716	27%	0.14%
2	Bomi County Community College	Education	556,430	87,080	16%	0.06%
3	Bong Technical College	Education	939,534	214,578	23%	0.14%
4	Cuttington University	Education	649,840	649,840	100%	0.44%
5	Environmental Protection Agency	Energy & Environment	2,679,484	1,424,870	53%	0.96%
6	Financial Intelligence Unit	Transparency & Accountability	822,951	382,995	47%	0.26%
7	Forestry Training Institute	Energy & Environment	356,778	206,778	58%	0.14%
8	General Services Agency	Public Administration	2,416,817	1,002,702	41%	0.67%
9	Grand Gedeh Community College	Education	522,440	124,280	24%	0.08%
10	House of Representatives	Public Administration	30,352,848	10,736,477	35%	7.21%
11	House of Senate	Public Administration	14,590,622	4,605,835	32%	3.09%
12	Independent Information Commission	Transparency & Accountability	412,371	71,475	17%	0.05%
13	Internal Audit Agency	Transparency & Accountability	3,682,149	278,529	8%	0.19%
14	Liberia Electricity Corporation	Energy & Environment	1,000,000	1,000,000	100%	0.67%
15	Liberia Land Authority	Transparency & Accountability	1,489,710	424,310	28%	0.28%
16	Liberia Produce Marketing Corporation	Agriculture	372,194	7,790	2%	0.01%
17	Liberia Refugee Repatriation & Resettlement Commission	Social Development Services	586,169	60,797	10%	0.04%
18	Lofa Community College	Education	815,491	184,771	23%	0.12%
19	Ministry of Information, Cultural Affairs & Tourism	Public Administration	3,130,678	1,183,253	38%	0.79%
20	Ministry of Labor	Industry & Commerce Sector	1,857,096	595,064	32%	0.40%
21	Ministry of Public Works	Infrastructure & Basic Services	30,438,472	4,058,837	13%	2.72%
22	Monrovia Consolidated School System	Education	3,895,758	365,058	9%	0.25%

No.	Entity	Sector	FY2017-18 Budget	Goods & Services	Percentage of Agency's Budget at Risk	Percentage of National Procurement Envelope at Risk
23	National Commission on Disabilities	Social Development Services	438,398	159,165	36%	0.11%
24	National Commission on Small Arms	Security & Rule of Law	645,545	118,835	18%	0.08%
25	National Council of Chiefs & Elders	Municipal Government	605,225	412,937	68%	0.28%
26	National Disaster Management Agency	Municipal Government	250,000	70,000	28%	0.05%
27	National Housing Authority	Infrastructure & Basic Services	817,184	205,936	25%	0.14%
28	National Insurance Corporation of Liberia	Industry & Commerce Sector	158,095	30,391	19%	0.02%
29	National Lottery Authority	Industry & Commerce Sector	499,640	297,350	60%	0.20%
30	National Veterans Bureau	Social Development Services	454,411	108,715	24%	0.07%
31	Phebe Hospital & School of Nursing	Health	2,110,341	953,853	45%	0.64%
32	Rubber Development Fund Incorporated	Agriculture	553,237	443,497	80%	0.30%
33	University of Liberia	Education	16,176,400	16,176,400	100%	10.86%
34	West African Examinations Council	Education	1,348,037	719,554	53%	0.48%
35	William V.S. Tubman University	Education	4,835,428	237,541	5%	0.16%
	Total		131,210,409	47,805,209	36%	32.08%